of the order which do not relate to Truth-in-Lending Act requirements or are unaffected by Regulation Z. These provisions are not affected by this policy statement and will remain in full force and effect.

Staff Clarifications

The Commission intends that this Enforcement Policy Statement obviate the need for any creditor or advertiser to file a petition to reopen and modify any affected order under section 2.51 of the Commission's rules of practice (16 CFR 2.51). However, the Commission recognizes that the policy statement may not provide clear guidance to every creditor or advertiser under order. The staff of the Division of Enforcement, Bureau of Consumer Protection, will respond to written requests for clarification of any order affected by this policy statement.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Commissioner Mary L. Azcuenaga Concurring in 16 CFR Part 14, Matter No. P954215; Repeal of Mail Order Insurance Guides, Matter No. P954903; Repeal of Guides Re: Debt Collection, Matter No. P954809; and Free Film Guide Review, Matter No. P959101

In a flurry of deregulation, the Commission today repeals or substantially revises several Commission guides and other interpretive rules.[1] The Commission does so without seeking public comment. I have long supported the general goal of repealing or revising unnecessary, outdated, or unduly burdensome legislative and interpretive rules, and I agree that the repeal or revision of these particular guides and interpretive rules appears reasonable. Nevertheless, I cannot agree with the Commission's decision not to seek public comment before making these changes.

Although it is not required to do so under the Administrative Procedure Act, 5 U.S.C. 553(b)(A), the Commission traditionally has sought public comment before issuing, revising, or repealing its guides and other interpretive rules. More specifically, the Commission adopted a policy in 1992 of reviewing each of its guides at least once every ten years and issuing a request for public comment as part of this review. *See* FTC Operating Manual ch. 8.3.8. The Commission decided to seek public comment on issues such as: (1) The economic impact of and continuing need for the guide; (2) changes that should be made in the guide to minimize any adverse economic effect; (3) any possible conflict between the guide and any federal, state, or local laws; and (4) the effect on the guide of technological, economic, or other industry changes, if any, since the guide was promulgated.

Id. The Commission has sought public comment and has posed these questions concerning a number of guides since adopting its procedures for regulatory review in 1992.[2]

Notwithstanding its long-standing, general practice of seeking public comment and its specific policy of seeking public comment as part of its regulatory review process, the Commission has chosen not to seek public comment before repealing or revising these guides and interpretive rules. Why not? Has the Commission changed its view about the potential value of public comment? Perhaps the Commission knows all the answers, but then again, perhaps not. Although reasonable arguments can be made for repeal or revision of these guides and interpretive rules, public comment still might prove to be beneficial.

In addition, the relatively short period of time that would be required for public comment should not be problematic. The Commission has not addressed any of these guides or interpretive rules in the last ten years. Indeed, it has not addressed some of them for thirty years or more. For example, the Commission apparently has not addressed the interpretive rule concerning the use of the word ''tile'' in designation of non-ceramic products since it was issued in 1950.[3] The continued existence of these guides and interpretive rules during a brief public comment period surely would cause no harm because they are not binding and because, arguably, they are obsolete. I seriously question the need to act so precipitously as to preclude the opportunity for public comment.[4]

In 1992, the Commission announced a careful, measured approach for reviewing its guides and interpretive rules, and public comment has been an important part of that process. Incorporating public comment into the review is appropriate and sensible. Although I have voted in favor of repealing or revising these guides and interpretive rules, I strongly would have preferred that the Commission seek public comment before doing so.

[FR Doc. 95–19926 Filed 8–14–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements, 16 CFR part 14; Guides for the Mail Order Insurance Industry, 16 CFR part 234; Guides Against Debt Collection Deception, 16 CFR part 237; and Guide Against Deceptive Use of the Word ''Free'' in Connection With the Sale of Photographic Film and Film Processing Services, 16 CFR part 242.

[2] *See, e.g.,* Requests for Comments Concerning Guides for the Hosiery Industry, 59 FR 18004 (Apr. 15, 1994); Request for Comment Concerning Guides for the Feather and Down Products Industry, 59 FR 18006 (Apr. 15, 1994).

[3] 16 CFR 14.2.

[4] Unfortunately, seeking public comment would not permit the Commission to count the repeal and revision of these guides and interpretive rules in its tally of completed actions in the Regulatory Reinvention Initiative Report that will be sent to the President on August 1, 1995, but perhaps that harm could be mitigated by reporting to the President that the Commission is seeking public comment concerning repeal or revision.

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2238]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Business and Media Visas

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This rule implements the provisions of section 209 of the Immigration Act of 1990. This section creates a new nonimmigrant classification under INA 101(a)(15)(R). The new nonimmigrant visa classification provides for the temporary admission into the United States of ''aliens in religious occupations.''

DATES: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, 202–663–1204.

SUPPLEMENTARY INFORMATION: On January 6, 1992, at 57 FR 341, the Department of State published an interim rule in the **Federal Register** and requested comments from interested parties by February 5, 1992. The Visa Office received six comments on the interim rule and considered each one of the comments in the preparation of the final rule.

General

As explained in the preamble to the interim rule, the Immigration Act of 1990, Public Law 101–649, amended INA 101(a)(27)(C) and created INA 101(a)(15)(R). The substantive standards for the nonimmigrant and immigrant provisions are the same with the exception that the immigrant category requires that the immigrant alien must have been performing out one of the vocations and activities listed in INA 101(a)(27)(C) during the 2 years immediately preceding the petition for special immigrant status. A significant procedural difference between the nonimmigrant visa classification and the special immigrant category lies in the fact that a petition must be filed with and approved by the Immigration and Naturalization Service (INS) to accord special immigrant status. Although no petition is required to establish entitlement under the ''R'' visa classification, the applicable standards common to the two visas must be applied by the INS and the Department

of State. It is essential, therefore, that the standards be the same. To ensure that the regulatory standards were indeed the same, the publication of the Department's interim rule was delayed until the publication on December 27, 1991 of INS' final rule relating to the ''R'' visa. A comparison of the two regulations reveals that the language of the portions common to both agencies is almost identical.

Comments

One commenter objected to the rule being published as an interim rule rather than as a proposed rule. The commenter expressed concern that the interim rule was published prior to the solicitation of public comments rather than afterward. He saw this as a violation of the Administrative Procedure Act, 5 U.S.C. 551 et seq. Section 553(b)(3) of the Administrative Procedure Act exempts Federal agencies from the more extensive notice requirements of proposed rule making when such notice is ''impracticable * * * or contrary to the public interest.'' As the commenter correctly pointed out, however, where a Federal agency finds that proposed rule making is ''contrary to the public interest,'' section 553(b)(3)(B) requires the Federal agency to provide a statement of reasons for that finding. Although the Department failed to provide such a statement when it published the interim rule, the Department believes that the public interest standard was, in fact, met. The Department sought to publish a regulation governing the issuance of R visas as soon as possible as the INS final rule on R visas (upon which our regulations are dependent) had been published on December 27, 1991. The Department sought prompt publication of this rule to ensure consistency. This interim rule also called for public comment, soliciting comments for any possible amendments in the final rule.

The Department received one comment concerning the definition of religious denomination at § 41.58(b). The commenter made the point that the use of the word ''interdenominational'' may cause ambiguity. Consequently, it was suggested that either ''interdenominational'' be deleted or that the sentence be amended to read ''interdenominational as well as religious organizations.'' The purpose of the use of the term ''interdenominational'' is to be expansive and to include not just single religious groups, i.e., denominations, but also, those entities which consist of two or more religious groups. As the language of the interim rule conveys the intended meaning, it will be retained in the final rule.

One commenter suggested that the definition of ''bona fide nonprofit religious organization in the United States'' is too narrow. The interim rule defines such organization as one which has been found to be tax exempt as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations, or as an organization which would in the opinion of a consular officer be eligible for such tax exempt status had application been made. The commenter stated that the definition was overly restrictive for four reasons: first, the statute does not require that definitional standard; secondly, the rule conflicts with agency policy; thirdly, the rule conflicts with legislative history; and fourthly, the tax exempt status is not a viable means to determine nonprofit status. The Immigration Act of 1990 amended the definition of a religious organization by adding a specific reference to the tax exempt provisions of the Internal Revenue Code. Formerly, INA 101(a)(27)(C) required the applicant to submit proof of tax exempt status as accorded by the IRS. Practice has found that this is the most viable way to address the issue of qualifying organizations. The definition of religious organization in connection with the Internal Revenue Code is, therefore, entirely consistent with the plain language of INA 101(a)(15)(R). Consequently, the regulation has not been amended in this regard.

A commenter objected to language in the supplementary information preceding the interim rule that an affiliated organization to the religious organization, defined in § 41.58(d), be ''subordinate or dependent.'' It should be noted that the language of the final rule is consistent with INS' final rule and does not include this requirement. The supplementary information inaccurately characterized the definition of an affiliated organization.

One commenter objected to the requirement that a professional religious worker (§ 41.58(f)) possess at least a U.S. baccalaureate degree or its foreign equivalent. The commenter claimed that because there is no degree requirement in the Act, there can be no statutory basis for instituting such a requirement. The commenter also contended that the ''R'' classification encompasses credentials and experience that are less quantifiable than their counterparts in other nonimmigrant visa categories. The thrust of the argument is that degree equivalence in the form of experience, etc. should be permitted for religious workers. On the other hand, a commenter opined that the proposed definition of professional capacity was not restrictive enough.

The INS addressed these same issues in the supplementary information to their final rule. We are in accord with that agency's reasoning and conclusion and retain the language in the final rule. This language is consistent with INS' regulations for the ''R'' visa as well as the immigrant religious worker visa category. In addition to ministers of religion the statute provides for two classes of religious workers; those working in a religious vocation or occupation and those working in a religious vocation or occupation in a professional capacity. The distinguishing feature between these two classes of religious workers lies obviously in the element of ''professional capacity''. By making this distinction, it is assumed that Congress intended that there be a difference in meaning. The only reasonable meaning lies in defining professional capacity in the manner that is reflected in the regulation. The statute has defined ''profession'' in INA 101(a)(32) and has defined ''professional'' at INA 203(b)(3)(A). In the latter provision the statute requires the professional to have a baccalaureate degree, thus shedding light on congressional intent in the religious worker context. To accept the proposal about equivalency would remove any meaningful distinction between these two classes of religious workers. Religious workers who have experience in lieu of a baccalaureate degree would qualify under the general class of religious workers involved in a religious vocation or occupation. It should be noted that foreign degrees equivalent to the U.S. baccalaureate are recognized and accepted.

One commenter suggests that the ''traditional'' religious function should be liberally construed. The commenter is apparently referring to § 41.58(g) and is not requesting any regulatory change but is merely expressing the view that in implementing this subsection the Department interpret this concept ''liberally.'' Consular officers will be instructed to interpret this term contextually. The occupational activity must be reviewed in the context of the particular religion to determine if it is a ''traditional'' activity for that religion. No change in the regulation is, therefore, necessary.

The Department received a comment stating that the definition of ''religious occupation'' (at § 41.58(g)) was overly broad, specifically citing the list of the activities in subsection (g). It is crucial to note that the list of activities set forth in the regulation exactly mirrors the list

of activities that the House Committee on the Judiciary deemed were activities falling within the ambit of religious occupation. in their legislative history at H.R. 101–723, p. 75. The legislative history emphasizes that these activities must ''relate to traditional religious functions.'' This qualifying element has, therefore, been incorporated into the regulation.

A commenter asked that the rule expressly recognize any combination of religious workers' duties to satisfy the employment requirement. The commenter argued that since religious worker positions often involve a wide array of duties and responsibilities and such positions will not fall cleanly within the parameters of any of the three religious worker subcategories, recognition for ''hybrid'' vocations and occupations should be accorded generally under this classification. The Department's responsibility is to administer this section of the INA as written. Visa applicants must demonstrate that they qualify under one of the three subcategories. The language of the statute and regulations defining religious occupation and religious vocation appear to be sufficiently broad to encompass the type of occupations which appear to be contemplated by the commenter. Nothing in the regulations limits a ''religious occupation'' to a single activity. The activities comprising the occupation must, however, ''relate to a traditional religious function.''

A commenter objected to language in the supplementary information to the interim rule describing religious vocation. The supplementary information states that ''an alien who has taken vows or the equivalent and has made a lifetime commitment to a religion is presumed to be engaging in activities relating to a traditional religious function . . .''. As pointed out by the commenter, in its final rule INS stated that the calling to religious life is ''evidenced by the demonstration of commitment practiced in the religious denomination.'' The Department's interim rule and the final regulation use the same language and endorse this concept. The language in the supplementary information in the interim rule is much more restrictive and inconsistent with this regulatory language.

Lastly, a commenter asserted that a petition is required to accord ''R'' visa status. Because a petition is required to be filed with and approved by the INS as a condition precedent to visa application and issuance for certain nonimmigrant worker visa classifications, the commenter believed the petition requirement applied to this classification as well. The INA in section 214 specifically requires the filing of a petition with INS regarding H, L, O, P, and Q visa classifications. However, Congress did not impose such a requirement with respect to the ''R'' visa classification. Consequently, no petition requirement will be imposed for this visa classification under the current state of the law.

Final Rule

This final rule provides the general requirements of this nonimmigrant classification in paragraph § 41.58(a); defines terms for this classification in paragraphs (b) through (g); and, prohibits, in paragraph (h), the issuance of an ''R'' visa to an alien who has spent five years in the United States in the ''R'' classification unless the alien has been resident and physically present outside the United States for the immediate preceding year.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith, and reviewed in light of E.O. 12866 and found to be consistent therewith.

List of Subjects in 22 CFR Part 41

Aliens in religious occupations, Nonimmigrants, Passports and visas, Religious organizations.

In view of the legislative mandate of Public Law 101–649, Part 41 to Title 22 is amended by adding new section 41.58.

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read:

Authority: 8 U.S.C. 1104.

2. Part 41, Subpart F—Business and News Media, is amended by adding § 41.58 to read as follows:

§ 41.58 Aliens in religious occupations.

(a) Requirements for ''R'' classification. An alien shall be classifiable under the provisions of INA 101(a)(15)(R) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The alien, for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

(3) The alien seeks to enter the United States solely for the purpose of

(i) Carrying on the vocation of a minister of that religious denomination, or

(ii) At the request of the organization, working in a professional capacity in a religious vocation or occupation for that organization, or

(iii) At the request of the organization, working in a religious vocation or occupation for the organization, or for a bona fide organization which is affiliated with the religious denomination described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(4) The alien is seeking to enter the United States for a period not to exceed 5 years to perform the activities described in paragraph (3) of this section; or

(5) The alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) Religious denomination. A religious denomination is a religious group or community of believers. Among the factors that may be considered in determining whether a group constitutes a bona fide religious denomination are the presence of some form of ecclesiastical government, a recognized creed and form of worship, a formal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, and religious congregations. For purposes of this definition, an interdenominational religious organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 will be treated as a religious denomination.

(c) Bona fide nonprofit religious organization in the United States. For purposes of this section, a bona fide nonprofit religious organization is an organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations, or one that has never sought such exemption but establishes to the satisfaction of the consular officer that it would be eligible therefore if it had applied for tax exempt status.

(d) Bona fide organization which is affiliated with the religious denomination. A bona fide organization affiliated with the religious denomination is an organization which is both closely associated with the religious denomination and exempt

from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations.

(e) Minister of religion. A minister is an individual who is duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. A minister does not include a lay preacher who is not authorized to perform such duties. In all cases, there must be a reasonable connection between the activities performed and the religious calling of a minister.

(f) Professional capacity. Working in a professional capacity means engaging in an activity in a religious vocation or occupation which is defined by INA 101(a)(32) or for which the minimum of a United States baccalaureate degree or a foreign equivalent degree is required for entry into that field of endeavor.

(g) Religious occupation. A religious occupation is the habitual employment or engagement in an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

(h) Religious vocation. A religious vocation is a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to nuns, monks, and religious brothers and sisters.

(i) Alien not entitled to classification under INA 101(a)(15)(R). An alien who has spent 5 years in the United States under INA 101(a)(15)(R) is not entitled to classification and visa issuance under that section unless the alien has resided and been physically present outside the United States, except for brief visits to the United States for business or pleasure, for the immediate prior year.

Dated: August 9, 1995.

Diane Dillard,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 95–20139 Filed 8–14–95; 8:45 am]

BILLING CODE 4710–06–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in September 1995, and to multiemployer plans with valuation dates in September 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the September 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the ''single-employer regulation'') and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the ''multiemployer regulation'').

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and ''benefit liabilities,'' *i.e.,* all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during September 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during September 1995.

For annuity benefits, the interest rates will be 6.40% for the first 20 years following the valuation date and 5.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.00% for the period during which benefits are in pay status, 4.25% during the seven-year period directly preceding the benefit's placement in pay status, and 4.0% during any other years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for August 1995) of .20 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent an increase (from those in effect for August 1995) of .25 percent of the period during which benefits are in pay status and the seven years directly preceding that period. They are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However,